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NAVSECGRUINST 5720.42A

From: Commander, Naval Security Group Command

Subj: **AVAILABILITY TO THE PUBLIC OF NAVSECGRU (NAVAL SECURITY GROUP) RECORDS UNDER THE FOIA (FREEDOM OF INFORMATION ACT)**

Ref: (a) SECNAVINST 5720.42E
(b) 5 U.S.C. 552 (1988)
(c) SECNAVINST 5730.12B
(d) 5 U.S.C. 552a (1982)
(e) SECNAVINST 5741.2E
(f) SECNAVINST 5820.5A

1. Purpose. This instruction implements references (a) and (b) within the NAVSECGRU and delineates responsibilities and procedures in connection therewith.

2. Cancellation. NAVSECGRU Instruction 5720.42

3. Scope and Effect. Reference (a) implements reference (b) within the Department of the Navy by delineating responsibilities and prescribing policies, procedures, conditions, and criteria applicable to responding to requests of members of the public for copies of Department of the Navy records. This instruction amplifies and implements reference (a) and provides guidance for responses by NAVSECGRU military and civilian personnel to written requests, citing the FOIA, which are received from members of the public, requesting permission to examine or to be provided with copies of NAVSECGRU records. This instruction does not apply to:

a. Requests from Congress or members of Congress, which are governed by reference (c);

b. Requests from Navy military or civilian personnel for records pertaining to themselves, which are governed by reference (d);

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c. Requests from the General Accounting office for records in connection with audits, which are governed by reference (e);
d. Court orders or subpoenas demanding production of records, discovery, or testimony of witnesses that are governed by reference (f).

4. Policy. Per Department of the Navy policy, the NAVSECGRU will make available to the public all information concerning its operation, activities and administration, subject to certain exemptions. The requested records will be made available promptly, willingly and as a matter of right, subject to the requester's compliance with the prescribed minimum requirements.

5. Information to be provided. All requested records concerning the operation, activities, and administration of the NAVSECGRU will be provided to the public subject to the following specific exemptions:

- a. Currently and properly classified documents;
- b. Internal personnel rules and practices which do not impose requirements directly on the public, and which, if released, would hinder a significant agency function;
- c. Exempted by some other Federal statute;
- d. Trade secrets and commercial or financial information of entities outside government, the disclosure of which would harm the source of the information or harm a legitimate government interest;
- e. Inter/Intra-agency memoranda or letters;
- f. Records which would constitute a clearly unwarranted invasion of privacy upon an individual;
- g. Law enforcement investigations and information;
- h. Records of agencies regulating, supervising or reporting on financial institutions; or
- i. Geographic and geological records concerning wells.

6. Action

a. Release Authority. The commanding officer or officer in charge of naval activities is authorized to furnish copies of records in custody or to make such records available for examination, upon proper request,, subject to the exemptions outlined above and in reference (a).

b. Denial Authority. Authority to deny requests for records within the NAVSECGRU is vested solely with the COMNAVSECGRU (Commander, Naval security Group Command).

c. Procedures for Denial Recommendation. When any cognizant authority believes that a request for records should be denied, that authority will forward such request to the COMNAVSECGRU recommending denial, along with the reasons for the denial recommendation. The cognizant authority will also inform the requester that the request has been forwarded to COMNAVSECGRU.

d. All COMNAVSECGRU components will:

(1) Provide requested information promptly. Within ten 10 days of the receipt of any FOIA request a response shall be provided to the requester:

(a) Providing the requested records;

(b) Requesting a more specific description of the records to be provided if it is unclear from the original request;

(c) Inform the requester that the request has been forwarded to another official who has cognizance of the records; or

(d) If denial is recommended,, inform the requester that the request has been forwarded to COMNAVSECGRU.

(2) Consult references (a) and (b) for the cost to be charged to the requester for the items that are to be provided.

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(3) Promulgate such additional procedures where deemed necessary to implement FOIA within their organization.

(4) Educate and instruct personnel on the proper procedures in dealing with FOIA requests.

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